

## TO THE EMPLOYER

The Tennessee Occupational Safety and Health Administration's goal is to work with employers and employees to promote safety and health in the workplace. The inspection process plays an important role in insuring that Tennesseans have a safe work environment.

TOSHA has just completed an inspection of your facility. The compliance officer who conducted the inspection has found conditions that may be in violation of the standards. Citations may be issued. There may or may not be penalties.

This brochure contains important information regarding your responsibilities and rights. It is provided at your closing conference to help you plan any necessary action if a citation is issued. Please read completely the letter that comes with your citation. If you have questions contact the TOSHA Area Supervisor, the Manager of Safety Compliance, or the Manager of Health Compliance. Phone numbers are listed at the end of this brochure.

For each apparent violation found during the inspection, the compliance officer will discuss with you

- The nature of the violation
- Possible abatement (correction) measures
- Possible abatement (correction) dates

To minimize exposure of your employees to possible hazardous conditions, you are strongly urged to begin your corrective action immediately.

The compliance officer may also have found hazards during the course of this inspection that could require further evaluation. During the closing conference, you will be informed of all hazards that may be referred to another compliance officer for examination at a later date. Any such examination is considered a continuation of the original inspection.

## FOLLOWING THE RECEIPT OF THE CITATION

The citation or a copy of it must be posted at or near the place each violation occurred to let employees know about hazards to which they may be exposed. The citation must remain posted

for **three working days** or until the violation is corrected, whichever is longer. (Saturdays, Sundays, and holidays are not counted as working days.) You must comply with these posting requirements even if you contest the citation or request an informal conference.

**If you agree** to the citation and penalty, you must

- Correct the condition by the date set in the citation, and
- Pay the penalty, if one is proposed, and
- Document abatement on the form that you received with the citation and return it to the area supervisor.

## YOU MAY REQUEST AN INFORMAL CONFERENCE

To request an informal conference you must **contact the Area Supervisor by telephone or fax** as directed in the cover letter accompanying the **Citation and Notification of Penalty. All informal conferences must be held within 20 calendar days of the receipt of the citation and notification of penalty. After 20 days the citation becomes a final order.**

You may use the informal conference as an opportunity to

- Question the citation regarding
  - Violation
  - Penalty
  - Abatement date
- Obtain a more complete understanding of the specific standards that apply
- Discuss ways to correct the violations
- Obtain answers to any other related questions you may have

**Please note:** A notice of the informal conference must be posted 24 hours prior to the meeting. **Employees are entitled to participate in the meeting.** A copy of the meeting notice must be brought to the informal conference.

## YOU MAY CONTEST THE CITATION

**If you contest** the Violation, Penalty, or Abatement Date, you must notify the Commissioner of Labor and Workforce

Development in writing within 20 calendar days after the receipt of the Citation. The written notice of contest must clearly state what is being contested.

The Commissioner will forward your case to an independent agency, the Tennessee Occupational Safety and Health Review Commission. The Commission will schedule a hearing on the facts of your case. The Commission may uphold, modify, or eliminate any item of the citation that you have challenged.

## PAYING PENALTIES

Penalties must be paid within **30 calendar days** after the Citation and Notification of penalty has been issued. Make your check or money order payable to: **Treasurer-State of Tennessee.**

**Send your payment to TOSHA** with the **inspection number identified on your check.** Interest charges will be assessed on all penalty debt amounts not paid within 30 calendar days after the issue date on the citation. In addition to the interest applied, a delinquent penalty of 10 percent will be assessed on each fine unpaid at 30, 60, and 90 days for a maximum of 30 percent. A fine unpaid at 180 days will be referred to the State Attorney General for disposition.

If you contest the citation or penalty in good faith, you need not pay the penalty for those items contested until a final decision is made.

## DOCUMENTING CORRECTIVE ACTION

You must document abatement of cited violations. A form is provided with the citations. You may copy the form if more space is needed. This abatement information must be sent to the Area Supervisor listed in the citation when correction of alleged violation(s) has been completed.

For items identified in the citation as "Abatement Verification Required," the employer must certify that the items have been abated. If certification has not been provided within 10 days of the abatement date(s) on this citation, an additional penalty will be proposed. The additional penalty is equal to the original penalty, but will not be greater than \$1,000. You are to notify the Area Supervisor in writing of the date, the nature of the corrective action taken, and a statement that affected employees and their representatives have been informed of the abatement.

## REQUESTING ADDITIONAL TIME FOR CORRECTION

When uncontrollable events or other circumstances prevent your meeting an abatement date, you may request an extension. This extension request must be in writing and must state the reasons that you are requesting the extension and the measures that you have taken up to this point to correct the violations. The Area Supervisor grants extensions. Employees or their authorized representatives may contest all of the abatement dates if they believe them to be unreasonable.

## A FOLLOW-UP INSPECTION MAY BE CONDUCTED

If you receive a citation, a follow-up inspection may be conducted to verify that you posted the citation as required, corrected the violations as required in the citation, and adequately protected employees during multi-step or lengthy abatement periods.

## CONSULTATION RESOURCES PROGRAM

TOSHA's Consultation Resources Program provides "abatement" assistance and advice at no direct cost to employers who request it. This service is available if the compliance citations are not contested and the employer desires to improve working conditions.

## IT IS UNLAWFUL TO DISCRIMINATE AGAINST EMPLOYEES

The Act prohibits employers from discharging or discriminating against an employee who has exercised any right under the law, including the right to make safety or health complaints or to request an inspection from TOSHA. Complaints from employees who believe they have been discriminated against will be investigated by TOSHA.

## TOSHA AREA OFFICES

### NASHVILLE AREA OFFICE

(615) 741-2793

FAX (615) 741-3325

### MEMPHIS AREA OFFICE

(901) 543-7259

FAX (901) 543-7557

### KNOXVILLE AREA OFFICE

(865) 594-6180

FAX (865) 594-5171

### CHATTANOOGA AREA OFFICE

(423) 634-6424

FAX (423) 634-3115

### KINGSPORT AREA OFFICE

(423) 224-2042

FAX (423) 224-2056

### JACKSON AREA OFFICE

(731) 423-5640

FAX (731) 426-0505

# TOSHA CLOSING CONFERENCE GUIDE



## TENNESSEE DEPARTMENT OF LABOR & WORKFORCE DEVELOPMENT

The Tennessee Department of Labor & Workforce Development is committed to principles of equal opportunity, equal access, and affirmative action. Contact the Tennessee Department of Labor, EEO/AA Officer or ADA Coordinator at (615) 741-5324 for further information.



Tennessee Department of Labor & Workforce Development; authorization number 337276; June 2001; 10,000 copies. This public document was promulgated at a cost of \$.05 per copy.